

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JOEL L. SMITH,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 06-464-SLR
)	
WARDEN TOM CARROLL,)	
)	
Defendant.)	

ORDER

WHEREAS, plaintiff filed a civil rights action pursuant to 42 U.S.C. § 1983 without prepayment of the filing fee;

WHEREAS, on September 21, 2006, the court entered an order requiring plaintiff to complete and return USM-285 forms for the defendant, informing plaintiff that the United States Marshal would not serve the complaint until all USM-285 forms were received by the clerk of the court, and that failure to provide the USM-285 forms within 120 days from the date of the order may result in the complaint being dismissed or defendant being dismissed pursuant to Fed. R. Civ. P. 4(m) (D.I. 6);

WHEREAS, to date, none of the required USM-285 forms have been received from plaintiff;

THEREFORE, at Wilmington this 7th day of February, 2007, IT IS HEREBY ORDERED that plaintiff's complaint is DISMISSED WITHOUT PREJUDICE pursuant to Fed. R. Civ. P. 4(m). Plaintiff is not required to pay any previously assessed fees or the remaining balance of the \$350.00 filing fee. The clerk of the court is

directed to send a copy of this order to the appropriate prison business office.


UNITED STATES DISTRICT JUDGE